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9 Attorneys for Defendants
10 SOUTHERN WINE AND SPIRITS OF AMERICA, INC.;
HARVEY CHAPLIN; WAYNE CHAPLIN;
11 and JAMES MELAHN

12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16 THEODORE SIMPKINS,
17 v.
18 SOUTHERN WINE AND SPIRITS OF
AMERICA, INC.; HARVEY CHAPLIN;
WAYNE CHAPLIN; JAMES MELAHN; and
DOES ONE through TEN, inclusive,
19 Defendant.

20 Case No. 10-CV-2353-EDL

21 **STIPULATION AND ~~PROPOSED~~
ORDER RE: BRIEFING SCHEDULE
AS MODIFIED**

22 Judge: Hon. Elizabeth D. Laporte

23 Date Comp. Filed: April 28, 2010

1 **WHEREAS** Defendants Southern Wine & Spirits of America, Inc., Harvey Chaplin,
2 Wayne Chaplin and James Melahn removed this case to federal court on May 28, 2010;

3 **WHEREAS** Defendants filed a Motion to Dismiss Pursuant to the First-to-File Rule on
4 June 1, 2010 and set it for hearing on July 6, 2010;

5 **WHEREAS** the Court re-set the hearing on that Motion to July 13, 2010;

6 **WHEREAS** Defendants filed a Motion to Dismiss Pursuant to Federal Rule of Civil
7 Procedure 12 on June 4, 2010, and set it for hearing on July 13, 2010;

8 **WHEREAS** Plaintiff filed a Motion to Remand on June 10, 2010;

9 **WHEREAS** Defendants agreed that Plaintiff could set the hearing for his motion to
10 remand on thirty-three (33) days notice, rather than the thirty-five (35) days contemplated by
11 Local Rule 7-2(a);

12 **WHEREAS** Plaintiff set the hearing for his Motion to Remand for July 13, 2010, the
13 same day as the hearing on the other two motions;

14 **WHEREAS** the parties have met and conferred and believe that the number of issues to
15 be briefed on this schedule, and their complexity, warrant a brief extension of the time to file
16 opposition and reply briefs; and

17 **WHEREAS** the proposed schedule will not prejudice any party and will not cause undue
18 delay;

19 **IT IS THEREFORE STIPULATED THAT:**

20 1) Plaintiff's Opposition to the Motion to Dismiss Pursuant to the First-to-
21 File Rule will be due on June 25, 2010;

22 2) Plaintiff's Opposition to the Motion to Dismiss Pursuant to Federal Rule
23 of Civil Procedure 12 will be due on June 25, 2010;

24 3) Defendants' Opposition to the Motion to Remand will be due on
25 June 25, 2010;

26 4) Defendants' Reply re: the Motion to Dismiss Pursuant to the First-to-File
27 Rule will be due on July 2, 2010;

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1 5) Defendants' Reply re: the Motion to Dismiss Pursuant to Federal Rule of
2 Civil Procedure 12 will be due on July 2, 2010;

3 6) Plaintiff's Reply re: the Motion to Remand will be due on July 2, 2010.
4 7) **The hearing on all three motions is continued to July 20, 2010.**

5 Dated: June 15, 2010

KEKER & VAN NEST LLP

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7 By: /s/ Warren A. Braunig

8 ROBERT A. VAN NEST
9 BROOK DOOLEY
10 WARREN A. BRAUNIG
11 Attorneys for Defendants
12 SOUTHERN WINE AND SPIRITS OF
13 AMERICA, INC.; HARVEY CHAPLIN;
14 WAYNE CHAPLIN and JAMES
15 MELAHN

16 Dated: June 15, 2010

17 ALTSHULER BERZON LLP

18 By: /s/ James M. Finberg

19 MICHAEL RUBIN
20 JAMES M. FINBERG
21 Attorneys for Plaintiff
22 THEODORE SIMPKINS

23 *Concurrence obtained per*
24 *General Order 45 X.B*

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28 IT IS SO ORDERED.

Dated: June 15, 2010


25 _____
26 HON. ELIZABETH D. LAPORTE
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